



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Utah State Office

440 West 200 South, Suite 500

Salt Lake City, UT 84101-1345

<https://www.blm.gov/utah>



IN REPLY REFER TO:

1278

(UT-952)

FOIA UT-2018-04

EFTS # BLM-2018-00045

JAN 3 1 2019

Mr. Chris Saeger
Western Values Project
704C East 13th Street, Suite 568
Whitefish, Montana 59937

Dear Mr. Saeger:

This letter is our final response to your October 5, 2017, Freedom of Information Act (FOIA) request, received via email by the Bureau of Land Management (BLM), Utah State Office on October 6, 2017. Specifically, you requested the following information for the time period May 15, 2017, to the date BLM began its search:

Copies of all correspondence to/from (or cc'd) involving 1) State Director Ed Roberson, 2) Associate State Director Anita Bilbao, 3) Deputy State Director, Natural Resources Abbie Jossie, and 4) Deputy State Director, Land and Minerals Kent Hoffman that include any keywords or phrases listed in Appendix A (prioritization, Instruction Memorandum 2016-143, IM 2016-143, 2016-143, SO 3353, 3353, Secretarial Order) and involves the listed independent groups or any of the following officials from the Department of the Interior or the BLM Headquarters.

- Independent Groups
 - Western Energy Alliance (email ending in @westernenergyalliance.org)
 - Utah Petroleum Association (email ending in @utahpetroleum.org)
 - Utah Mining Association (email ending in @utahmining.org)
 - Big Game Forever (email ending in @biggameforever.org)
- Department of the Interior
 - Secretary Ryan Zinke
 - Deputy Secretary David Bernhardt
 - Press Secretary Heather Swift
 - Deputy Asst. Secretary for Fish, Wildlife and Parks Aurelia Skipwith
 - Acting USFWS Director Greg Sheehan

- Bureau of Land Management Headquarters

1. Acting BLM Director Michael Nedd
2. Acting Asst. Director for Energy, Minerals & Realty Tim Spisak
3. Ms. Kathy Benedetto

Enclosed is a compact disc (CD) containing 57 documents (335 pages) responsive to your request. Since we redacted information under Exemption 5 of the FOIA, we consider our response to be a partial denial of your request. Below is a detailed explanation:

Exemption 5 of the FOIA protects information in "inter- and intra-agency memoranda or letters, which would not be available by law to a party . . . in litigation with the agency." In accordance with the exemption, we withheld various types of information under two separate and distinct privileges, as described herein. These privileges are the Deliberative Process Privilege and Confidential Commercial Information Privilege. *See 5 U.S.C. § 552(b)(5).*

Deliberative Process Privilege. This Exemption 5 privilege prevents injury to the quality of agency decisions. The protection of pre-decisional and deliberative documents encourages open and frank discussions on matters of policy between subordinates and superiors; guards against premature disclosure of proposed policies before they are finally adopted; and eliminates the possibility of public confusion that might result from disclosure of reasons and rationales that were not in fact ultimately the grounds for the BLM's action. This privilege applies to documents that reflect advisory opinions, recommendations, and deliberations that are part of an internal decision-making process and release of such documents would have a chilling effect on our internal deliberative process. Under this privilege, we withheld several email attachments that were either draft or internal documents.

Confidential Commercial Information Privilege. When the government enters the marketplace as an ordinary commercial buyer or seller, the government's information is protected under the commercial information privilege if it is sensitive information not otherwise available, and disclosure would significantly harm the government's monetary functions or commercial interests. Under this privilege, we withheld a BLM conference line and associated passcode contained within one email thread.

You may appeal this partial denial to the Department's FOIA/Privacy Act Appeals Officer. If you choose to appeal, the FOIA/Privacy Act Appeals Officer must receive your FOIA appeal no later than 90 workdays from the date of this letter. Appeals arriving or delivered after 5:00 p.m. Eastern Standard Time, Monday through Friday, will be deemed received on the next workday.

Your appeal must be in writing. You may submit your appeal and accompanying materials to the FOIA/Privacy Act Appeals Officer by mail, courier service, fax or email. All communications concerning your appeal should be clearly marked with the words: "FREEDOM OF INFORMATION ACT APPEAL." You must include an explanation of why you believe BLM's response is in error. You must include with your appeal, copies of all correspondence between you and BLM concerning your FOIA request, including your original FOIA request and BLM's response. Failure to include all correspondence between you and BLM will result in the Department's rejection of your appeal, unless the FOIA/Privacy Act Appeals Officer determines (in the FOIA/Privacy Act Appeals Officer's sole discretion) that good cause exists to accept the defective appeal.

Please include your name and daytime telephone number (or the name and telephone number of an appropriate contact), email address and fax number (if available) in case the FOIA/Privacy Act Appeals Officer needs additional information or clarification of your appeal.

DOI FOIA/Privacy Act Appeals Office Contact Information:

FOIA Appeals Officer
Department of the Interior
Office of the Solicitor
1849 C Street, N.W.
MS-6556 MIB
Washington, DC 20240

Telephone: (202) 208-5339
Fax: (202) 208-6677
Email: FOIA.Appeals@sol.doi.gov

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of FOIA. *See 5 U.S.C. 552(c).* This response is limited to those records that are subject to the requirements of FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

In 2007, a number of amendments to the FOIA were enacted. As part of these FOIA amendments, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS does not affect your right to pursue litigation. You may contact OGIS via phone, email or fax as outlined below:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road - OGIS
College Park, MD 20740-6001

E-mail: ogis@nara.gov
Web: <https://ogis.archives.gov>
Telephone: 202-741-5770
Fax: 202-741-5769
Toll-free: 1-877-684-6448

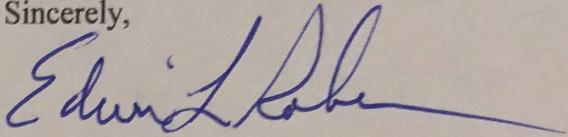
Please note that using OGIS does not affect the timing of filing an appeal with the Department's FOIA and Privacy Act Appeals Officer.

You also may seek dispute resolution services through Ryan Witt, BLM FOIA Public Liaison, at rkwitt@blm.gov or by telephone to (202) 912-7562.

As stated in our letter of October 10, 2017, we have approved your fee waiver request. Your justification clearly met the Department's FOIA regulations and fee-waiver criteria. You demonstrated that disclosure of records related to the amendment of 98 sage grouse habitat management plans across 10 states is of significant interest to the American public in formulating their opinions on this issue. See 43 CFR § 2.48.

If you have any questions concerning our response, please contact Gloria Van Noy, FOIA Specialist, at (801) 539-4179 or email to BLM_UT_FOIA@blm.gov.

Sincerely,



Edwin L. Roberson
State Director